

SHIELD ACT

DECEMBER 13, 2005.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. OXLEY, from the Committee on Financial Services,
submitted the following

R E P O R T

[To accompany H.R. 2695]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 2695) to amend the McKinney-Vento Homeless Assistance Act to protect the personally identifying information of victims of domestic violence, dating violence, sexual assault, and stalking, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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PURPOSE AND SUMMARY

The purpose of H.R. 2695 is to enhance the safety of domestic violence victims staying in shelters by requiring the use of non-personally identifying information for data collection and statistical purposes. The Department of Housing and Urban Development cur-

purposes. The Department of Housing and Urban Development currently requires information such as the date of birth, location, ethnicity and race of women staying in domestic violence shelters. This data can be used to identify victims of domestic violence, placing them at even greater risk. H.R. 2695 recommends the use of other data collection methods to compile unduplicated counts without jeopardizing the lives of domestic violence victims.

BACKGROUND AND NEED FOR LEGISLATION

The Safe Housing Identity Exception for the Lives of Domestic Violence Victims Act (SHIELD Act) prohibits disclosure of the personally identifying information of victims of domestic violence, dating violence, sexual assault, and stalking.

In 2001, the Veteran's Affairs, Housing and Urban Development Appropriations Conference Committee directed HUD to collect data on the extent of homelessness at a local level. HUD created a rule requiring entities receiving funds through the McKinney-Vento Homelessness Assistance Act to implement local Homeless Management Information Systems (HMIS). HMIS are complex databases that collect, track, and share comprehensive personally identifiable data about individuals who use services for the homeless, including victims of domestic violence. Under this rule, all HUD McKinney-Vento Act programs, including domestic violence shelters, transitional housing programs, and homeless and emergency shelters are required to input residents' personal data into the HMIS.

In place of personally identifying information, the SHIELD Act recommends the use of non-personally identifying information for data collection and statistical purposes. As defined in H.R. 2695, prohibited, identifying information includes: (1) first and last name; (2) home or other physical address, including street name, name of city or town, and ZIP code; (3) email address or other online contact information, such as instant messaging user identifier or a screen name that reveals an individual's email address; (4) telephone number; (5) social security number; (6) Internet Protocol address or host name that identifies an individual; (7) persistent identifier, such as a customer number held in a "cookie" or processor serial number, that is combined with other available data that identifies an individual; and (8) any other information, including grade point average, date of birth, academic or occupational interests, athletic or extracurricular interests, racial or ethnic background, or religious affiliation, that, in combination with any of the above, would serve to identify any individual.

Thirty-seven states have confidentiality statutes that conflict with HUD's requirement to include personally identifying information in the HMIS database. In addition to the Federal and state homeless programs and their contractors that have access to this information, the HMIS database can be accessed by law enforcement agencies and national security agencies without a warrant. Further, the database could be accessed by an individual with a Freedom of Information Act request.

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on November 16, 2005 and ordered reported to the House H.R. 2695, the

“Safe Housing Identity Exception for the Lives of Domestic Violence Victims Act” by a voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. No record votes were taken with in conjunction with the consideration of this legislation. A motion by Mr. Oxley to report the bill to the House with a favorable recommendation was agreed to by a voice vote.

PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee establishes the following performance related goals and objectives for this legislation:

The objective of this legislation is to protect the identity of domestic violence victims. The goal of H.R. 2695 is to prohibit HUD from requiring domestic violence victims staying at shelters to provide personally identifying information and instead. This legislation requires that non-personally identifying information instead be used for data collection and statistical purposes.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Act pursuant to section 402 of the Congressional Budget Act.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 29, 2005.

Hon. MICHAEL G. OXLEY,
*Chairman, Committee on Financial Services,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2695, the Safe Housing Identity Exception for the Lives of Domestic Violence Victims Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Chad Chirico.

Sincerely,

DONALD B. MARRON
(For Douglas Holtz-Eakin, Director).

Enclosure.

H.R. 2695—Safe Housing Identity Exception for the Lives of Domestic Violence Victims Act

H.R. 2695 would amend the McKinney-Vento Homeless Assistance Act to protect the identifying information of victims of domestic violence. The bill would prohibit recipients of certain grants from disclosing to any person, agency, or entity a victim's identifying information such as the victim's name, address, or telephone number.

CBO estimates that implementing H.R. 2695 would have no effect on the federal budget and would not affect direct spending or revenues.

H.R. 2695 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act. Any costs to state, local, or tribal governments would be incurred voluntarily as a condition of federal assistance.

The CBO staff contact for this estimate is Chad Chirico. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional Authority of Congress to enact this legislation is provided by Article 1, section 8, clause 1 (relating to the general welfare of the United States) and clause 3 (relating to the power to regulate interstate commerce).

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This section establishes the short title of the bill, the “Safe Housing Identity Exception for the Lives of Domestic Violence Victims Act,” or the “SHIELD Act.”

Section 2. Amendment to the McKinney-Vento Homeless Assistance Act

The Secretary of HUD is directed to instruct entities that are: (1) recipients of HUD grants or HUD programs; or (2) recipients of any other Federal or State program, to not disclose identifying information about individuals who are reasonably believed to be: (1) a victim of domestic violence, dating violence, sexual assault, or stalking; (2) the parent or guardian of a minor victim of domestic violence, dating violence, sexual assault, or stalking; or (3) the dependent or minor child of a victim of domestic violence, dating violence, sexual assault, or stalking. One example of “identifying information” is first and last name.

The Secretary must not require entities receiving benefits under any other Federal or State program to disclose personally identifying information about any client reasonably believed to be: (1) victims of domestic violence, dating violence, sexual assault, or stalking; (2) the parents or guardians of minor victims of domestic violence, dating violence, sexual assault, or stalking; or (3) the dependents or minor children of victims of domestic violence, dating violence, sexual assault, or stalking.

The Secretary shall instruct recipients of (1) HUD programs and funding; (2) any other Federal or State programs; (3) any other Federal or State program participating in any homeless management information system (HMIS) funded at least in part under this subsection, that personally identifying information about any client may only be disclosed to an HMIS with that client’s informed, timely, written consent. To comply with HMIS data collection requirements, the Secretary may require entities covered in this act to share nonpersonally identifying aggregate and demographic information.

The term “personally identifying information” means information relating to an individual that could be used to identify that individual, including: (1) first and last name; (2) a home or other physical address, including street name, name of city or town, and ZIP code; (3) an email address or other online contact information, such as an instant messaging user identifier or a screen name that reveals an individual’s email address; (4) a telephone number; (5) a social security number; (6) an Internet Protocol address or host name that identifies an individual; (7) a persistent identifier, such as a customer number held in a “cookie” or processor serial number, that is combined with other available data that identifies an individual; and (8) any other information, including grade point average, date of birth, academic or occupational interests, athletic or extracurricular interests, racial or ethnic background, or religious affiliation, that, in combination with any of the above would serve to identify any individual.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

SECTION 423 OF THE MCKINNEY-VENTO HOMELESS ASSISTANCE ACT

SEC. 423. ELIGIBLE ACTIVITIES.

(a) IN GENERAL.—The Secretary may provide any project with one or more of the following types of assistance under this subtitle:

(1) * * *

* * * * *

(8) *CONFIDENTIALITY.*—

(A) *HOUSING ASSISTANCE GRANTS AND PROGRAMS.*—*In the course of awarding grants or implementing programs under this subsection, the Secretary shall instruct any recipient or subgrantee not to disclose to any person, agency, or entity any personally identifying information about any client if the Secretary, recipient, or subgrantee believes, based upon reasonable evidence, that the client is—*

(i) a victim of domestic violence, dating violence, sexual assault, or stalking;

(ii) the parent or guardian of a minor victim of domestic violence, dating violence, sexual assault, or stalking; or

(iii) the dependent or minor child of a victim of domestic violence, dating violence, sexual assault, or stalking.

(B) *OTHER FEDERAL AND STATE PROGRAMS.*—*The Secretary shall not require or ask a recipient or subgrantee of any other Federal or State program to disclose personally identifying information about any clients if the persons, agencies, or entities implementing those programs believe, based upon reasonable evidence, that those clients are—*

(i) victims of domestic violence, dating violence, sexual assault, or stalking;

(ii) the parents or guardians of minor victims of domestic violence, dating violence, sexual assault, or stalking; or

(iii) the dependents or minor children of victims of domestic violence, dating violence, sexual assault, or stalking.

(C) *HOMELESS MANAGEMENT INFORMATION SYSTEMS.*—*The Secretary shall instruct any recipient or subgrantee under this subsection or any recipient or subgrantee of any other Federal or State program participating in any homeless management information system funded in whole or in part under this subsection that personally identifying information about any client may only be submitted to a homeless management information system if the program seeking to disclose such information has obtained informed,*

reasonably time-limited, written consent from the client to whom the information relates. The Secretary may require or ask any recipient or subgrantee to share nonpersonally identifying data in the aggregate regarding services to clients and nonpersonally identifying demographic information in order to comply with the data collection requirements of homeless management information systems.

(D) DEFINITION.—As used in this paragraph, the term personally identifying information means information from or about an individual that could be used to identify such individual, including—

- (i) first and last name;*
- (ii) a home or other physical address, including street name, name of city or town, and ZIP code;*
- (iii) an email address or other online contact information, such as an instant messaging user identifier or a screen name that reveals an individual's email address;*
- (iv) a telephone number;*
- (v) a social security number;*
- (vi) an Internet Protocol address or host name that identifies an individual;*
- (vii) a persistent identifier, such as a customer number held in a "cookie" or processor serial number, that is combined with other available data that identifies an individual; and*
- (viii) any other information, including grade point average, date of birth, academic or occupational interests, athletic or extracurricular interests, racial or ethnic background, or religious affiliation, that, in combination with any of the above, would serve to identify any individual.*